The rejection of claim 1 under 35 U.S.C. § 103(a) over Brinkley in view of Salvo should be withdrawn for the following reasons.

1. The teaching of Brinkley relied upon in the rejection of claim 1 is not supported by Brinkley's disclosure

In the rejection of claim 1, the Examiner has stated that:

> Brinkley et al. shows, figures 4 and 6, an inventory management system. One of the first decision points in the Brinkley system is to compare average order cost to a cost limit (column 10, line 15). The average order cost of the inventory item is the total dollar sales (product cost for spot and non-spot market items) for the total period surveyed divided by the total number of orders for the item during that period. ...

In this statement, the Examiner has given the correct definition of the average order cost of an inventory item (i.e., "the total dollar sales for the total period surveyed divided by the total number of orders for the item during that period" (col. 10, lines 16-18)). The Examiner, however, has drawn an incorrect inference from this definition. In particular, the total dollar sales of the inventory item is not the cost of obtaining the inventory item from spot market and non-spot market sources. Clearly, the price at which an inventory item is sold (dollar sales) by a business entity typically is not the price at which the entity purchased the inventory item; otherwise, the entity would not make sufficient money to cover fixed costs, in which case the business entity soon would be out-of-business. In fact, the prices at which inventory items are sold are determined by the current conditions under which each product will be sold, including various factors that vary in number and importance for each product and each time period under consideration.

In addition, Brinkley thresholds the average order cost to identify the items that "expose the business to a high risk of loss if an order is incorrectly placed, thereby either sacrificing a large amount of revenue, or necessitating a large amount of dollar-volume in a warehouse" (col. 9, lines 14-20; see also col. 10, lines 12-24). An average order cost that simply measured the cost of obtaining the inventory items from spot market and non-spot market sources divided by the total number of orders would not reflect the amount of revenue that would be sacrificed from an incorrectly placed order nor would it reflect the warehousing costs that would be necessitated by an incorrectly placed order. Therefore, in light of the

intended purpose of the average order cost in the context of Berkley's invention, it is unreasonable to believe that average order cost incorporates the cost of obtaining the inventory items from spot market and non-spot market sources.

For the reasons explained above, one skilled in the art would not have understood from Berkley's disclosure that the average order cost defined by Brinkley incorporates the cost of obtaining the product. Therefore, Berkley does not teach computing an optimal safety stock level for a product to cover uncertainty in demand over an exposure period with a desired service level based at least in part on a cost of obtaining the product from spot market and non-spot market sources, contrary to the inference relied upon by the Examiner in the rejection of claim 1.

2. One skilled in the art at the time the invention was made would not have been motivated to combine the teachings of Brinkley and Salvo as proposed by the Examiner

The Examiner has suggested that "it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify Brinkley et al. system to incorporate the inventory price source module of Salvo et al as a source for many set of input values in the Brinkley et al. process which plans safety stock levels in order to optimize purchase value." As explained above, however, contrary to the Examiner's assumption, the cost of obtaining the product (from spot market and non-spot market sources) is not an input into the portfolio stratification process executed by Brinkley's MISER program. Therefore, one skilled in the art at the time the invention was made would not have been motivated to incorporate Salvo's price source module as a source of an input into the portfolio stratification process.

Instead, the combination of Brinkley and Salvo that is most consistent with the teachings of both references would result in the use of Salvo's price source module to determine the low price vendor AFTER a decision to order an amount of an inventory item has been made by Brinkley's MISER system. Indeed, this is the type of configuration that Salvo expressly discloses in col. 5, lines 1-10 and col. 9, lines 8-18 (i.e., where the price source module 126 determines the lowest total inventory purchase price based on real-time inventory status information and estimates of future inventory needs). Thus, in accordance with a proper reading of the disclosures of Berkley and Salvo, one skilled in the art at the

time of the invention would have used Brinkley's system to supply an input into Salvo's price source module, not vice versa as proposed by the Examiner.

3. Conclusion

For the reasons explained above, the rejection of claim 1 under 35 U.S.C. § 103(a) over Brinkley in view of Salvo should be withdrawn.

B. Claims 2-6, 8, and 14-21

Each of claims 2-6, 8, and 14-21 incorporates the features of independent claim 1 and therefore is patentable over Brinkley and Salvo for at least the same reasons explained above.

III. Conclusion

For the reasons explained above, all of the pending claims are now in condition for allowance and should be allowed.

Charge any excess fees or apply any credits to Deposit Account No. 08-2025.

Respectfully submitted,

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